

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

STEPHON LINDSAY, #207044,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:07-CV-399-WC
)	[WO]
)	
RICHARD ALLEN, et al.,)	
)	
Defendants.)	

MEMORANDUM OPINION¹

This cause of action is pending before the court on a 42 U.S.C. § 1983 complaint filed by Stephon Lindsay [“Lindsay”], a state inmate, on May 8, 2007. In this complaint, Lindsay challenges actions taken against him during his confinement at the Bullock County Correctional Facility.

Pursuant to the orders of this court, the defendants filed written reports supported by relevant evidentiary materials in which they addressed the claims for relief presented by Lindsay. The reports and evidentiary materials refute the self-serving, conclusory allegations presented by the plaintiff in the instant cause of action. The court thereafter issued an order directing Lindsay to file a response to the written reports. *Order of May 28, 2009 - Court Doc. No. 59*. The order advised Lindsay that his failure to respond to the defendants’ written reports would be treated by the court “**as an abandonment of the claims set forth in the complaint and as a failure to prosecute this action.**” *Id.* at 1 (emphasis in original). Additionally, the order “**specifically cautioned [the plaintiff] that [his failure] to file a response in compliance with the directives of this order**” would result in the dismissal of this civil action. *Id.* The time allotted Lindsay for filing a response in compliance

¹Pursuant to 28 U.S.C. § 636(c)(1) and M.D. Ala. LR 73.1, the parties have consented to the United States Magistrate Judge conducting all proceedings in this case and ordering the entry of final judgment.

with this order expired on June 10, 2009. As of the present date, Lindsay has filed nothing in opposition to the defendants' written reports as required by the order issued on May 28, 2009. In light of the foregoing, the court concludes that this case should be dismissed.

The court has reviewed the file in this case to determine whether a less drastic measure than dismissal is appropriate. After such review, it is clear that dismissal of this case without prejudice is the proper course of action. Lindsay is an indigent state inmate. Thus, the imposition of monetary or other punitive sanctions against him would be ineffectual. Additionally, Lindsay has exhibited a lack of deference for this court and its authority as he has failed to comply with requisite directives of an order entered in this case. The court therefore deems it unnecessary to continue attempts to secure Lindsay's compliance. Consequently, the court concludes that the plaintiff's abandonment of his claims, his failure to comply with the orders of this court and his failure to properly continue prosecution of this cause of action warrant dismissal of this case.

A separate order will accompany this memorandum opinion.

Done this 18th day of June, 2009.

/s/ Wallace Capel, Jr.
WALLACE CAPEL, JR..
UNITED STATES MAGISTRATE JUDGE